

26 April 1951

MEMORANDUM FOR: THE DIRECTOR

SUBJECT: General Officer Limitations

1. Colonel Kurth, Army JAG, called your office with a question concerning whether a general officer appointed as DCI should come within the numerical limitations on general officers set forth in the Officer Personnel Act of 1947. The call was referred to me and I discussed it with Colonel Kurth on 26 April.

2. The Act in question exempts from the limitation on numbers those general officers appointed to civilian positions by specific acts by the Congress. The National Security Act of 1947 gave the President general authority to appoint military personnel to the position of DCI with the advice and consent of the Senate. The question was whether such an appointment was by specific act of Congress as required in the above exemption. I stated that there had been no discussion of this point to my knowledge, and that there was no indication of the intent of Congress.

3. Colonel Kurth stated his opinion that the general authorization in the National Security Act, together with the specific confirmation of your appointment by the Senate, was within the exemption and that he would recommend that General Smith not be counted among the general officers subject to the statutory numerical restrictions. I asked Colonel Kurth if he felt that this in any way affected General Smith's status and he stated that he thought not.

4. I then asked what would happen if General Smith returned to a strictly military position at a time when the numerical limitation was filled. Colonel Kurth was not prepared to give an answer on this point.

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LAWRENCE R. HOUSTON
General Counsel